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INFO RUCNCIS/CIS COLLECTIVE
RUEHZL/EUROPEAN POLITICAL COLLECTIVE
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C O N F I D E N T I A L SECTION 01 OF 02 MOSCOW 002132

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E.O. 12958: DECL: 03/03/2016
TAGS: [PGOV](#) [PHUM](#) [PINR](#) [PREL](#) [RS](#)
SUBJECT: NGO LEGISLATION: LOOKING AHEAD TOWARD
IMPLEMENTATION

REF: MOSCOW 1090

Classified By: Ambassador William J. Burns. Reasons: 1.4 (B/D).

¶1. (C) SUMMARY: A bit over a month before Russia's new NGO legislation goes into effect, most independent NGO activists are concerned about its implementation but retain a wait-and-see attitude. In recent weeks, the government has initiated investigations against some independent NGOs, but it has also favorably resolved some troublesome cases. We continue to reiterate our concerns about implementation to high-level interlocutors, many of whom acknowledge the validity of those concerns. The broad expectation is that the Kremlin will hold off on launching a sweeping attack on independent civil society at least until after the G-8 Summit, and perhaps thereafter. The timing and harshness of its implementation are open to speculation, with the implementing regulations now being drafted also playing into the equation. END SUMMARY

¶2. (C) Signed by President Putin on January 10, the controversial new NGO legislation will go into effect on April 10. Over the past few weeks, several contacts have told us, the Justice Ministry has proceeded with drafting implementing regulations, working in conjunction with other ministries and agencies. That process has been opaque, however, with none of our contacts indicating they had any details about it.

NGO COMMUNITY'S VIEWS

¶3. (C) Civil society activists have expressed to us their continued concerns about the legislation's potential impact. Sakharov Center Director Yuriy Samodurov told the Ambassador, who was visiting the Center on March 3, that the legislation was likely to make things harder for NGOs. Offering his Center as an example, Samodurov said that it might be forced to clear planned exhibits in advance with the Justice Ministry, its affiliation with foreign nationals could cause problems, and Samodurov might be forced to resign as its director because of his March 2005 conviction for inciting religious hatred. International Republican Institute Country Director Joe Johnson told us March 4 that there were indications, still unconfirmed, that the implementing regulations could impose new requirements that would further complicate his organization's work in Russia.

¶4. (C) While there is widespread concern, however, many civil society activists acknowledge that they are unsure exactly how the legislation will be implemented. Moscow Helsinki Group head Lyudmila Alekseyeva told visiting EUR DAS David Kramer on February 21 that many activists are taking a wait-and-see attitude. Alekseyeva believed it unlikely that the GOR would launch a major attack on a large NGO before the G-8 Summit, although it was possible this could occur after

the Summit to send a warning to the rest of the independent civil society community. For now, NGOs could only prepare themselves for whatever might transpire.

15. (C) The period since the signing of the legislation has seen some incidents that have further chilled the atmosphere for independent NGOs. The Moscow Procurator's office, for instance, recently warned Memorial that its publication of information on Hizb-ut-Tahrir's ideology may constitute promotion of Islamic extremism. Memorial head Oleg Orlov called the warning a new effort to pressure civil society. A contact at Memorial told us on March 1 that the organization had taken the item off its website, at least temporarily, to avoid immediate problems, but was planning to take the case to court to get a ruling making clear that it could be restored to the website.

16. (C) At the same time, the news has not been all bad. The St. Petersburg Procuracy's decision to renew a tax case against the British Council had been widely seen as an effort to rein in NGOs. A British emboff told us March 4, however, that following a meeting between FM Lavrov and British Foreign Secretary Straw, the GOR had given HMG the text of a cultural agreement that the British had long been requesting and that would resolve most of the British Council's problems.

EXPRESSING OUR CONCERNS

17. (C) The Ambassador and others have continued to underscore our concerns about implementation. The Ambassador raised the issue March 3 with DFM Aleksandr Yakovenko. Acknowledging that implementation was not directly within the MFA's purview, the Ambassador stressed that it would bear heavily

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on Russia's image abroad. The GOR might think ahead to meeting with NGOs and the media when the legislation takes effect, explaining its implications, in order to demonstrate transparency and a desire for cooperation. Registering an NGO, such as the New Eurasia Foundation, could also show GOR goodwill, the Ambassador stressed. Yakovenko agreed that doing so was worth considering and said he would pursue it with FM Lavrov.

18. (C) The Ambassador reinforced our views in a March 2 meeting with Human Rights Ombudsman Vladimir Lukin. Saying that the legislation might prove "more useless than harmful," Lukin agreed that much depended on its implementation. Some Kremlin officials wanted to apply the legislation harshly against independent NGOs, Lukin said, while others opposed that view. Pointing to the legislation's vague definition of political activity as a troublesome element, Lukin said that if a narrow definition was applied, independent civil society would not be harmed. Also troubling was that the legislation did not imply a presumption of innocence for NGOs, allowing bureaucrats to issue a ban on questionable grounds, which the NGO would have to challenge in court to regain registration. If the legislation were implemented in a positive way in the first six months after going into effect, however, that would set a good precedent, Lukin argued.

19. (C) In conversations over the last few days with Duma Foreign Affairs Committee Chair Konstantin Kosachev and Federation Council International Relations Committee Chair Mikhail Margelov, the Ambassador reiterated our concerns. Each said that the legislature would monitor implementation and take action if necessary. The Ambassador made a similar point in another recent conversation with Ella Pamfilova, Chair of the Presidential Council for Assistance to Development of Institutions of Civil Society and Human Rights, who said she would follow the implementation closely. The Ambassador also noted to Russian G-8 Sherpa Shuvalov that flawed implementation of the legislation could harm Russia's image during the G-8 Summit. Shuvalov acknowledged the point and added that President Putin was aware of that.

Our UK Embassy interlocutor told us visiting HMG officials have also continued to raise their concerns with Russian officials. Moscow Carnegie Center Director Rose Goetemoeller told the Ambassador on March 3 that she had also stressed concerns about implementation to GOR officials and had urged them to take constructive steps once the legislation goes into effect to ease the NGO community's fears.

¶10. (C) In previous conversations, members of the Public Chamber have told us their body would play an important monitoring role. Bishop Sergey Ryakhovskiy, a Chamber member, told us March 2 that he had been placed in charge of a working group to track implementation. That working group planned to assess implementation for three months after the legislation goes into effect, at which point it would provide Chamber Secretary Yevgeniy Velikhov with a formal report. If things were going badly, Ryakhovskiy said, he would press for the Chamber to urge amendments to the legislation. Another Chamber member, Institute of Religion and Politics Director Aleksandr Ignatenko, told us March 1 that he had been among the signatories of an appeal to Putin not to sign the legislation before the Chamber could properly consider it, and that he and other signatories, though disappointed that their appeal had not been heeded, still intended to keep a close eye on implementation.

¶11. (C) As noted reftel, the American Chamber of Commerce was considering organizing a roundtable for officials drafting the implementing legislation to highlight Western experience with NGO law. AmCham Executive Director Andrew Somers told the Ambassador on March 2 that his organization intended to hold such a session shortly. AmCham held a briefing for its NGO members on the legislation on February 7.

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COMMENT

¶12. (C) Civil society activists, though highly concerned with the new legislation, maintain a wait-and-see attitude. Most are not totally resigned to its harsh implementation, although they acknowledge that that is a possibility. There are many scenarios for how the situation will play out, and many observers do not expect a harsh application of the legislation as soon as it goes into effect, believing that if it will be applied vigorously, that would only be done after the G-8 Summit. The timing and harshness of its implementation are open to speculation, and the nature of the implementing regulations now being drafted would also be a significant factor.

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